

FILED IN
OPEN COURT

February 23 2010

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 09-11719-RGS

EXPLORICA, INC.

v.

ELDERHOSTEL, INC.
d/b/a EXPLORITAS

JURY VERDICT

February 22, 2010

STEARNS, D.J.

Q.1 Has Explorica established by a preponderance of the evidence that Elderhostel's EXPLORITAS mark is substantially similar to its EXPLORICA mark?

A.1. Yes No _____

(If the answer is "Yes," please answer Q.2. If the answer is "No," you have reached a verdict.)

Q.2 Has Explorica established direct confusion by a preponderance of the evidence, that is, that because of the similarity of the marks, potential customers are likely to be confused into mistakenly believing that Explorica is the source or sponsor of Elderhostel's services, or that potential Explorica customers are likely to be diverted to Elderhostel?

A.2. Yes No _____

Please answer Q.3.

Q.3 Has Explorica established reverse confusion by a preponderance of the evidence, that is, that because of the similarity of the marks, consumers are likely to be

confused into mistakenly believing that Elderhostel is the source or sponsor of Explorica's services?

A.3. Yes _____ No

(If the answer to Q.2 and/or Q.3 is "Yes," please answer Q.4. If the answer to both Q.2 and Q.3 is "No," you have reached a verdict.)

Q.4. Does the jury find by a preponderance of the evidence that Elderhostel's decision to adopt and use the EXPLORITAS mark was willful?

A.4. Yes _____ No

Please answer Q.5.

Q.5. Has Explorica shown by a preponderance of the evidence that direct or indirect confusion will cause it to lose future segments of the travel market into which it or Elderhostel has present plans to expand?

A.5. Yes No _____

I certify that the above answer(s) represent the unanimous verdict of the jury.

Richard D. Gould
Foreperson

Dated:

2/23/10